

**STATE OF CALIFORNIA
DEPARTMENT OF INSURANCE
45 Fremont Street, 24th Floor
San Francisco, California 94105**

FINAL STATEMENT OF REASONS

Date: February 9, 2010

Regulation File: REG-2009-00023

UPDATED INFORMATIVE DIGEST

The Department incorporates by reference the original Informative Digest as set forth in the Notice of Proposed Action and Notice of Public Hearing. There is no need to update any of the information contained in the Informative Digest for this matter. The Informative Digest contained in the Notice is still accurate.

UPDATE OF INFORMATION CONTAINED IN INITIAL STATEMENT OF REASONS

The Department incorporates by reference the original Initial Statement of Reasons. There is no need to update any of the information contained in the Initial Statement of Reasons for this matter. The Initial Statement of Reasons contained in the Notice is still accurate.

UPDATE OF MATERIAL RELIED UPON

No material other than public comments, the transcript of the public hearing, this Final Statement of Reasons, the Table of Contents, and the Certification of the rulemaking record has been added to the rulemaking file since the time the rulemaking record was opened, and no additional material has been relied upon.

MANDATE UPON LOCAL AGENCIES AND SCHOOL DISTRICTS

The Department has determined that the proposed amendments to the regulations will not impose a mandate upon local agencies or school districts.

ALTERNATIVES; IMPACT ON SMALL BUSINESS

The Commissioner has determined that there are no alternatives that would be more effective, or as effective and less burdensome to affected persons, than the proposed amendments to the regulations. In support of this determination is the fact that the only alternatives suggested in public comments are requests that the Department recalculate its actual costs to make them lower, that the Department phase in any increase in fees incrementally over time, or that the Department reduce fees for insurers that make electronic filings instead of paper filings.

The Department has already calculated its actual costs, and it has considered whether there are any cost reductions to be had, such as cost reductions from electronic filings. The benefits to be had from electronic filings do not encompass any significant cost savings. In addition, any delay in correcting the current fiscal imbalance merely perpetuates the problem that the amendments to the regulations are designed to solve.

None of the suggested alternatives would carry out the purpose for which the regulations are being amended, which is to stop the ongoing structural deficit created by inadequate fees. The proposed amendments to the regulations adjust fees so that the fees cover the actual cost of processing, indexing, and maintaining copies of documents which must be filed under California law.

The proposed alternatives will not lessen any adverse economic impact on small businesses. The regulations affect insurance companies which file forms with the California Department of Insurance, and insurance companies are not small businesses. California Government Code section 11342.610(b)(2). In addition, California law requires that fees be paid to the Commissioner to cover the cost of processing, indexing, and maintaining the forms that are filed. California Insurance Code section 12973.9. The regulations implement this statute. How insurers handle this cost is up to them. If insurers are concerned about passing this cost along to their customers, they can choose to be more efficient, as many businesses and government entities are currently doing, and absorb the cost increase instead of passing the increased filing costs through to their customers.

SUMMARY OF AND RESPONSE TO COMMENTS

<i>Commenter</i>	<i>Synopsis or Verbatim Text of Comment</i>	<i>Response</i>
Letter dated December 16, 2009 from The Association of California Life and Health Insurance Companies (“ACLHIC”), by Legislative and Regulatory Counsel Ted M. Angelo; and The American Council of Life Insurers (“ACLI”), by Regional Vice President John W. Mangan	[The letter is attached as Exhibit A. The comments have been numbered to correspond with the agency’s responses.]	<p>Response to comment #1: No change. There is no need to change the regulations in response to this comment. This comment does not address the proposed amendments to the regulations or the rulemaking procedures followed.</p> <p>Response to comment #2: No change. There is no need to change the regulations in response to this comment. The new fees have not yet been implemented. They will be implemented as of the effective date of the proposed amendments to the regulations.</p> <p>Response to comment #3: No change. There is no need to change the regulations in response to this comment.</p> <p>Response to comment #4: No change. Under California law, fees “shall be paid to the commissioner” to cover costs incurred with respect to form filings. California Insurance Code section 12973.9. The Commissioner’s costs are set forth in this rulemaking file and reflected in the amended fees. Other states’ fees are irrelevant. Moreover, the degree to which other states review form filings varies given variations in state laws and state oversight across the country. Some states do not provide review of filings which are reviewed by California. The fees charged by those states may be lower, but their fees are irrelevant to cost of form review in California under</p>

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		<p>California law.</p> <p>The Department acknowledges that the amendments to the regulations increase fees, but the increase in fees will comprise a small part of an insurer's overall financial picture. An insurer pays just one fee to the Department of Insurance for each policy form to be reviewed and approved. Once the form is approved, the insurer can sell the policy to hundreds or even thousands of customers. Given this, an \$830 increase in the policy form fee for one variable life insurance policy form, for example, is relatively small, especially when viewed over however many years the insurer chooses to use the form. The Department does not think that cost increases of \$830 or other amounts set forth in the proposed amendments will prevent insurers from offering new or updated products in California. In addition, each insurer controls how many fees it must pay by deciding how many filings to make.</p> <p>Response to comment #5: No change. There is no need to change the regulations in response to this comment. The Department has already calculated its actual costs, and it has considered whether there are any cost reductions to be had, such as cost reductions from electronic filings. The benefits to be had from electronic filings do not encompass any significant cost savings. In addition, any delay in correcting the current fiscal imbalance merely perpetuates the problem that the amendments to the regulations are designed to solve. The commentator fails to explain the reference to "the</p>

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		<p>Commissioner’s projected cost reductions for the industry that the department shared earlier this year” and fails to state how this is relevant to the amount of fees the Department is authorized to charge pursuant to Insurance Code section 12973.9, therefore it is not possible to respond to this portion of the comment with more specificity. The Department agrees that the shortfall in the cost of processing, indexing, and maintaining copies of forms has been covered by other revenue sources of the Department of Insurance.</p> <p>Response to comment #6: No change. There is no need to change the regulations in response to this comment. The Department has calculated its actual costs, and it has considered whether there are any cost reductions to be had, such as cost reductions from electronic filings. The benefits to be had from electronic filings do not encompass any significant cost savings. The Department’s “actual costs” are exactly that – its actual costs. Any delay in correcting the current fiscal imbalance merely perpetuates the problem that the amendments to the regulations are designed to solve.</p> <p>Response to comment #7: No change. There is no need to change the regulations in response to this comment. Please see the Department’s response to comment #6, above, which the Department incorporates by reference herein. Electronic filings such as SERFF filings or filings in PDF format do not decrease the Department’s storage space expenses, because the Department still must</p>

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		<p>maintain and store a multitude of paper documents. The cost of processing filings involves the work of attorneys, actuaries, and other reviewers and file processors, and the cost of this work does not diminish, regardless of whether the filing is made by paper or electronically.</p> <p>Response to comment #8: No change. There is no need to change the regulations in response to this comment. This comment assumes that the flow of form filings to the Department will slow or stop, and that when the Department has finished reviewing and processing form filings which are currently waiting to be reviewed there will be no more filings awaiting review at that time. This situation has never occurred, and there is no reason to expect that it will occur in the future. The Department receives a more-or-less constant flow of filings, and it expects this pattern to continue. The Department took into account the fees it receives for file review when it calculated the amounts needed to recover its costs.</p> <p>The Department disagrees that any fee increases “ultimately impact costs to consumers.” As noted above, it is up to the insurers to decide whether they will become more efficient or whether they will pass along any increase in costs to their customers.</p> <p>Response to comment #9: No change. There is no need to change the regulations in response to this comment. Although Bulletin 2009-5 was issued last spring, the Department has not been charging the amended fee</p>

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		<p>amounts set forth in the Bulletin pending the Department's adoption and OAL's approval of the amendments to the regulations. ACLHIC's member insurers making form filings with the Department should be aware that the amended fees have not taken effect because they have been charged only the existing fee amounts, not the amended fee amounts, for their form filings. The revised fees will apply to filings filed after the effective date of the amended regulations.</p> <p>Response to comment #10: No change. There is no need to change the regulations in response to this comment. The Department incorporates by reference its responses to the comments above in response to this comment.</p>
The Association of California Life and Health Insurance Companies ("ACLHIC"), by Legislative and Regulatory Counsel Ted M. Angelo; and The American Council of Life Insurers	<p>[The portion of the hearing transcript containing public comments received at the hearing on December 17, 2009 is set forth below. Only one individual, Mr. Angelo, presented comments at the hearing. The comments have been numbered to correspond with the agency's responses.]</p> <p>(1) MR. ANGELO: Okay, for the record, my name is Ted Angelo. I'm with the Association of California Life & Health Insurance Companies. We are a state-based trade association of life and health insurance companies, based in Sacramento; and I am legislative and regulatory counsel for the Association.</p>	<p>Response to comment #1: No change. There is no need to change the regulations in response to this comment. Mr. Angelo is correct in referring to this rulemaking proceeding as REG-2009-00023.</p> <p>Response to comment #2: [see below]</p>

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(“ACLI”), by Regional Vice President John W. Mangan	<p>I'm also going to be submitting a letter today highlighting some comments with the proposed regulation; and joining on the letter is the National Life Insurance Trade Association -- ACLI -- the American Council of life Insurers; and their representative, who's not here today, is John Mangan. M-A-N-G-A-N.</p> <p>On a technical note, in your prologue, you said Reg 2000 -- Reg' 2009-00029; it's 2-3.</p> <p>MS. HOM: I'm sorry. I may have misspoken. It's 00023.</p> <p>MR. ANGELO: I thought I'd have to do a new letter.</p> <p>MS. HOM: I apologize. I probably misspoke.</p> <p>MR. ANGELO: Well, I'm glad.</p> <p>MS. HOM: Yes.</p> <p>MR. ANGELO: Again, we are going to submit some written comments, and I'm just going to reference some of those comments and give a little, if I can, basis for why I'm here today.</p> <p>I reviewed the regulation and -- we have reviewed the regulation and -- let me just give you a little bit of who we are -- ACLIC -- who I represent -- is a life insurance trade representing many of the nation's largest life and health insurance companies doing business in California. The ACLI is the principal national trade association that writes about 90 -- their members write about 90 percent of all life, annuity, pension, 401K, long-term care disability income, and reinsurance, in the state. We have about 42 -- ACLIC has about 42+ members. I think about 35 or so are the</p>	

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	<p>major life insurance companies; the others are PPO health insurers, some of which offer life insurance products; and ACLI is, I think, about 350 members.</p> <p>We appreciate the opportunity to comment on the proposed regulation, address the fees for document submission processing, and storage.</p> <p>(2) And we're just -- you know, wanted to comment on -- you know -- it has been about 12 years. I don't know if that's absolutely accurate. I think it was March '07(sic) the last time the fees --</p> <p>MS. HOM: Yeah, I'm not sure when that changed --went into effect, precisely -- but, it's been at least 12 years.</p> <p>MR. ANGELO: Okay, well, we looked at --</p> <p>MS. HOM: I believe that's what it says in the notice.</p> <p>MR. ANGELO: Okay.</p> <p>MS. HOM: Whatever the time frame is in the notice is.</p> <p>MR. ANGELO: I know it's been a significant amount of time; and that's not -- I understand there's a need for increases in the cost of processing these types of filings and certificates, and -- you know -- and I've looked at the authority, most specifically, in 12973.9, that gives the Commissioner authority to do regulations to determine the original fee schedule, or any amended fee schedule, and the standards in doing it, by a bulletin.</p> <p>Say, if you do so, you have to do it 90 days before the effective date; and that was done in March. The bulletin was issued and the effective date was July 1.</p>	<p>Response to comment #2: No change. There is no need to change the regulations in response to this comment. The Department has complied with the requirements of the Government Code in giving notice of the proposed amendments to the regulations to ACLHIC and others. In addition, the Department issued Bulletin 2009-5, which contains the amended fee schedule, in March, 2009. A copy of Bulletin 2009-5 was mailed to ACLHIC on or about March 27, 2009. Bulletin 2009-5 was then posted on the Department's public website on March 27, 2009. It is listed under information for "Insurers" under the category "Bulletins."</p> <p>The Department believes the commentator's reference to "something that's already in place" is based on a misconception. Although Bulletin 2009-5 was issued last spring, the Department has not been charging the amended fee amounts set forth in the Bulletin pending adoption and approval of the amendments to the regulations. ACLHIC's member insurers making form filings with the Department should be aware that the amended fees have not yet taken effect because they have been charged only the existing fee amounts for their form</p>

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	<p>Unfortunately, we weren't -- ACLIC -- was not aware that the fees were being -- were going to be raised; and I was unaware of the bulletin.</p> <p>So, I'm coming here, today, with the -- you know, talking about something that's already in place; because most of my comments -- and we do not have any problems with the technical aspects of updating 2202, 2203 -- the changes that were proposed. I went through them all and they all seem to comport with laws that have changed and statutes that have been updated.</p> <p>I'm here just to make more of an editorial on the past. I think it's probably been -- I don't even know if it's ever been done before, but -- the Department, on the general fee assessment, increased what they imposed on insurers and producers for the first time, I think, ever; if that's not accurate, it's been a very, very long time.</p> <p>What we were not aware of and what I learned in reading this proposed regulation is that the -- those fees -- those general fees -- were subsidizing the increased cost that was discussed in the rationale for this proposed regulation. We were unaware that they were so out of whack.</p> <p>(3) And what we wanted to do is talk about, you know, is there a way to potentially, incrementally, increase the fees? And I know that would mean having to put forward a new bulletin, or have the regulation override what's in the current bulletin authority. Is there a way to look at or re-</p>	<p>filings, not the amended fee amounts.</p> <p>It is true that the Department has not updated the fees set forth in CCR sections 2202 and 2203 for over 12 years, and that other Department revenues have been covering a shortfall caused by the inadequate fees. The Department has raised fees in the past, but that last occurred over a dozen years ago.</p> <p>Response to comment #3: No change. There is no need to change the regulations in response to this comment. The Department has calculated its actual costs, and it has considered whether there are any cost reductions to be had, such as cost reductions from electronic filings. The benefits to be had from electronic filings do not encompass any significant cost savings. The Department's "actual costs" are exactly that -- its actual costs. Electronic filings such as SERFF filings or filings in PDF format do not decrease the Department's storage space expenses, because the Department still must maintain and store a multitude of paper documents. The cost of processing filings involves the work of attorneys, actuaries, and other reviewers and file processors, and the cost of this work does not diminish regardless of whether the filing is made by paper or electronically.</p> <p>Any delay in correcting the current fiscal imbalance merely perpetuates the problem that the amendments to the regulations are designed to solve. Insurers that have filed with the Department have received an advantage by</p>

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	<p>analyze how the fees were determined?</p> <p>And, again, I know this hasn't been done in 12 years. One of our thoughts was, many things have changed in the past -- you know, even this year -- especially with electronic filing options -- SERFF -- and I don't know what the acronym, exactly, stands for, but -- I know it's electronic filing -- regulatory filing -- that the Department is beginning to utilize; it's not for all types of filings. But, we were wondering if part of the analysis took into account any cost savings that might occur with electronic types of filing methods, such as the SERFF process, or, accepting -- I think it's postscript definition files -- pdf files -- electronically, and E-mails, where the Department may, in the past, have had to require a triplicate form on carbon paper -- in the past, and -- things have been changing for the past two to three years and, especially, this year. I ask the question. I don't know if you can respond to that -- if that was part of the actuarial fee analysis for what the Department put forward -- but, it's one of the questions I have in my letter. Is that something I can ask?</p> <p>MS. HOM: Well, it's not a question-and-answer session, but, we're here to receive public comments on the reg's; so, that, certainly, will be considered.</p> <p>MR. ANGELO: Okay. So, that's the question I'm asking: We would like to know if the analysis included that; and, if it had not, is it possible to consider that?</p> <p>(4) Our initial analysis showed the fee increase is on the</p>	<p>paying inadequate fees for many years. This situation would continue if the fee increases are implemented incrementally, over time. Neither the law nor the facts support this approach.</p> <p>Response to comment #4: No change. There is no need to change the regulations in response to this comment. Under California law, fees “shall be paid to the commissioner” to cover costs incurred with respect to form filings. California Insurance Code section 12973.9. The Commissioner’s costs are set forth in this rulemaking file and reflected in the amended fees. Other states’ fees are irrelevant. Moreover, the degree to which other states review form filings varies given variations in state laws and state oversight across the country. Some states do not review filings that are reviewed by California. The fees charged by those states may be lower, but their fees are irrelevant to cost of form review in California under California law.</p> <p>The Department acknowledges that the amendments to the regulations increase fees, but the increase in fees will comprise a small part of an insurer’s overall financial picture. An insurer pays just one fee to the Department of Insurance for each policy form to be reviewed and approved. Once the form is approved, the insurer can sell the policy to hundreds or even thousands of customers. Given this, an \$830 increase in the policy form fee for one variable life insurance policy form, for example, is relatively small, especially when viewed over however</p>

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	<p>order of about three and-a-half times current fees; and this is in general. I believe it puts a single filing fee for a policy -- I think it would be a life policy -- at over \$1,000. Generally, filing fee increases proposed in this regulation are in the neighborhood of 350 percent from what we have received from our members. We think this greatly exceeds corresponding fees charged by any other state and will result in total filing fees for most companies increasing significantly. Obviously, for California domiciled companies, it would be worse.</p> <p>Due to the regulatory control nature of filing fees in many states, we think this dramatic fee increase, while it may be needed, doing it all at once may create a financial disincentive to offer new and updated products that would benefit California insurance consumers.</p> <p>(5) Again, we understand the Department's need to update its fees -- the fees it charges -- to better reflect its true costs; and we're willing to work with you on -- if you are -- were -- to amend any of this on looking at some of the analysis that you may do.</p> <p>I talked about the electronic filing options seeming to go in the opposite direction of the Commissioner's projected cost reductions, but, you know -- although the regulation summary indicates general fees have been subsidized, as I mentioned before.</p> <p>(6) We respectfully ask that you consider amending the</p>	<p>many years the insurer chooses to use the form. The Department does not think that cost increases of \$830 or other amounts set forth in the proposed amendments will prevent insurers from offering new or updated products in California. In addition, each insurer controls how many fees it must pay by deciding how many filings to make.</p> <p>Response to comment #5: No change. There is no need to change the regulations in response to this comment. The Department has already calculated its actual costs, and it has considered whether there are any cost reductions to be had, such as cost reductions from electronic filings. The benefits to be had from electronic filings do not encompass any significant cost savings. In addition, any delay in correcting the current fiscal imbalance merely perpetuates the problem that the amendments to the regulations are designed to solve. The commentator fails to explain the reference to “the Commissioner’s projected cost reductions” and fails to state how this is relevant to the amount of fees the Department is authorized to charge pursuant to Insurance Code section 12973.9, therefore it is not possible to respond to this portion of the comment with more specificity. The Department agrees that the shortfall in the cost of processing, indexing, and maintaining copies of forms has been covered by other revenue sources of the Department of Insurance.</p> <p>Response to comment #6: No change. There is no need to change the regulations in response to this comment.</p>

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	<p>proposed regulation to recalculate the actual costs incurred by the Department to see if the increase can be scaled back or applied incrementally.</p> <p>(7) The letter I have references some of the rationale and the costs that the Department stated for proposing the regulation. We were wondering if CDI could consider imposing a modified or a tiered fee structure to recognize any cost savings that might occur for more efficient filing methods that I've referenced. For example, perhaps, an insurer that filed directly, or in the SERFF process, could receive a reduced rate in that it eliminates a significant amount of paper handling.</p> <p>(8) One of our members commented regarding the current process in existing filings. The derivation of the revised cost recovery rates section of the Bulletin 2009-5, which is in effect as of July 1 with the new rates -- or -- the new rates are effective July 1 – the rate increases were derived by determining the actual costs of the Department of performing mandated form workload, and comparing those costs to the actual revenue received. In the initial statement of reasons for the proposed reg', the Department states that it determined the costs of processing documents subject to filing over a five-year period, comparing what the Department charged insurers during the same five years. Our members noted that it's, generally, understood that the Department has a backlog of filings to weigh and review. One member of ours has approximately 150 filings that have been processed during the last few years, but</p>	<p>The Department has calculated its actual costs, and it has considered whether there are any cost reductions to be had, such as cost reductions from electronic filings. The benefits to be had from electronic filings do not encompass any significant cost savings. The Department's "actual costs" are exactly that – its actual costs. Any delay in correcting the current fiscal imbalance merely perpetuates the problem that the amendments to the regulations are designed to solve.</p> <p>Response to comment #7: No change. There is no need to change the regulations in response to this comment. Please see the Department's response to comment #6, above, which the Department incorporates by reference herein. Electronic filings such as SERFF filings or filings in PDF format do not decrease the Department's storage space expenses, because the Department still must maintain and store a multitude of paper documents. The cost of processing filings involves the work of attorneys, actuaries, and other reviewers and file processors, and the cost of this work does not diminish, regardless of whether the filing is made by paper or electronically.</p> <p>Response to comment #8: No change. There is no need to change the regulations in response to this comment. This comment assumes that the flow of form filings to the Department will slow or stop, and that when the Department has finished reviewing and processing form filings which are currently waiting to be reviewed there will be no more filings awaiting review at that time. This</p>

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	<p>have not been reviewed completely, and they have not been charged; therefore, if the Department did not account for filings that have been processed, indexed, and stored, but not yet charged to insurers, in its analysis, the relating proposed fee might be higher than actual costs to the Department. This is something that we wanted you to consider as a comment, and, if that wasn't already factored in.</p> <p>Again, we just feel that it's important that the analysis is accurate because it, ultimately, would impact the costs to the insurance consumer.</p> <p>MS. HOM: May I ask a question and clarify?</p> <p>MR. ANGELO: Sure.</p> <p>MS. HOM: They're saying that they have filings that have not yet been approved, but that have been reviewed and --</p> <p>MR. ANGELO: That have been processed, but not been reviewed.</p> <p>MS. HOM: That have been processed?</p> <p>MR. ANGELO: And a determination has not been made.</p> <p>MS. HOM: Okay. So, they've been disapproved and resubmitted?</p> <p>MS. HOM: No, they haven't been reviewed.</p> <p>MS. HOM: What do they mean by "processed"?</p> <p>MR. ANGELO: I guess, when you accept a filing, it's given a process number, and is put in the queue for review.</p> <p>MS. HOM: I see, okay, okay. Thank you.</p> <p>MR. ANGELO: That's my understanding of it.</p> <p>MS. HOM: Okay, thanks for the clarification.</p> <p>(9) MR. ANGELO: For the effective date, we would like</p>	<p>situation has never occurred, and there is no reason to expect that it will occur in the future. The Department receives a more-or-less constant flow of filings, and it expects this pattern to continue. The Department took into account the fees it receives for file review when it calculated the amounts needed to recover its costs.</p> <p>The Department disagrees that any fee increases “ultimately impact costs to consumers.” As noted above, it is up to the insurers to decide whether they will become more efficient or whether they will pass along any increase in costs to their customers.</p> <p>Response to comment #9: No change. There is no need to change the regulations in response to this comment. The revised fees will apply to filings filed after the effective date of the amended regulations.</p> <p>Response to comment #10: No change. There is no need to change the regulations in response to this comment. The Department incorporates by reference its responses to the comments above in response to this comment.</p>

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	<p>to see clarification in the regulation that the new fees apply to filings -- you know -- or any revised fees would apply to filings -- on or after the effective date. It's clear in the Bulletin, but, silent, to the specific points in the regulations.</p> <p>According to the review of our members, under the Effective Date section of the Bulletin, it states: The increased costs of recovery rates will become effective for filings received by the Department on or after July 1 '09.</p> <p>(10) In conclusion, we respectfully ask the Department to consider re-evaluating the new fee schedule; and also consider an incremental increase, tiered for filing methods that I previously described, and we would be happy to work with you -- both ACLIC and ACLI -- on these issues at your convenience; although, we recognize, in the formal process -- we're willing to work with you on any questions that you have regarding our comments -- and that's all I have for comments.</p>	
Blue Shield of California Life & Health Insurance Co., by Associate General	<p>[The full text of the comment follows]</p> <p>Blue Shield of California Life & Health Insurance Company ("Blue Shield Life") provides the following comments to the above-cited proposed regulations by the</p>	<p>Response to comment #1: No change. There is no need to change the regulations in response to this comment. This comment assumes that the flow of form filings to the Department will slow or stop, and that when the Department has finished reviewing and processing form filings which are currently waiting to be reviewed there</p>

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Counsel Andrea D. DeBerry	<p>California Department of Insurance (“CDI”).</p> <p>1. Analysis of Costs and Revenue.</p> <p>In the Initial Statement of Reasons, the CDI provided its authority to increase fees under Insurance Code §10273.9, which is to be based on covering CDI expenses for processing and indexing form filings. Both the Initial Statement of Reasons and Bulletin 2009-5 says that the analysis to determine the fee increase was based on the actual costs incurred by the Commissioner and the actual fees charged to cover these costs over a five year period. From this analysis, the resulting fee increase needed to cover costs for these activities is 350% and up for various forms, while the CDI states that its costs to perform such services during the five year period have only gone up 35%.</p> <p>Without additional detail to determine how the CDI reached its final rate calculation, it is not clear whether the analysis performed was comprehensive to accurately conclude a rate the CDI needs to cover its actual costs. If, for example, the CDI did not also account for fees to be paid by an insurer once a filing is reviewed, then “actual revenue” may not be accurately reflected. Blue Shield Life alone has an estimated 150+ filings that remain unreviewed by the CDI for this same time period. Based on the CDI’s description, these 150 filings would have been counted in CDI costs for processing and indexing, but would not yet be reflected in revenue because the insurer isn’t billed until the filing is reviewed.</p>	<p>will be no more filings to be reviewed. This situation simply doesn’t occur, and there is no reason to expect that it will occur in the future. The Department receives a more-or-less constant flow of filings, and it expects this pattern to continue. The Department took into account the fees it receives for file review when it calculated the amounts needed to recover its costs.</p> <p>The Department acknowledges that the amendments to the regulations increase fees, but the increase in fees will comprise a small part of an insurer’s overall financial picture. An insurer pays just one fee to the Department of Insurance for a policy form to be reviewed and approved. Once the form is approved, the insurer can sell that policy to hundreds or even thousands of customers. Given this, an \$830 increase in the policy form fee for one variable life insurance policy form, for example, is relatively small, especially when viewed over however many years the insurer chooses to use the form. The Department does not think that cost increases of \$830 or other amounts set forth in the proposed amendments will prevent insurers from offering new and updated products in California.</p> <p>The Department disagrees that any fee increases are “ultimately born by the consumer.” As noted above, it is up to the insurers to decide whether they will become more efficient in order to absorb these costs or whether they will choose to pass along any increase in costs to their customers.</p>

<i>Commenter</i>	<i>Synopsis or Verbatim Text of Comment</i>	<i>Response</i>
	<p>It is understood other insurers have a similar outstanding number of filings. This uncounted revenue could account for the large disparity between the Department's stated increase in costs (35%) and the new increase in fees to insurers (350%) to cover such costs. Such confirmation of accuracy in the analysis which determined the new rates is critical as the CDI is only looking to cover its actual costs and such large increases in administrative overhead for the insurer is ultimately born by the consumer.</p> <p>2. Clarification of Effective Date. The proposed regulations are silent on the effective date for the new fees, while Bulletin 2009-5 clearly states that the date for new fees will become effective for filings received by the Department on or after July 1, 2009. The absence of an effective date in the proposed regulations creates a potential ambiguity which could result in inconsistent administration of the new fee schedule. This is particularly problematic for company filings that have been on file with the CDI prior to the effective date, but have not yet received CDI review. Therefore, Blue Shield Life respectfully asks that this clarification be added to the regulations.</p>	<p>Response to comment #2: No change. There is no need to change the regulations in response to this comment. The regulations do not have to be amended to set forth an effective date. Effective dates for regulations are set forth in the Form 400 which is sent to the Office of Administrative Law. The revised fees will apply to filings filed after the effective date of the regulations.</p>

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